

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

SUVERINO FRITH, SAVANNAH KINZER,  
CEDRICK JUAREZ, FAITH WALSH,  
MACKENZIE SHANAHAN, COREY  
SAMUEL, JENNIFER OSAYANDE,  
BRITNEY IFEBOHR, KANAYA RYLAND,  
KIRBY BURT, LEAVER MICHEL, ABDULAI  
BARRY, LINDSAY VUONG, SAMANTHA  
BERIMBAU, SUEPRIYA ADHI, ALICE  
TISME, CAMILLE TUCKER-TOLBERT,  
CHARLES THOMPSON, ANA BELÉN DEL  
RIO-RAMIREZ, LYLAH STYLES, KAYLA  
GREENE, SHARIE ROBINSON, KELLY  
RIGLER, JUSTINE O’NEILL, SARITA  
WILSON, and YURIN LONDON, individually  
and on behalf of all others similarly situated,

Plaintiffs,

v.

WHOLE FOODS MARKET, INC. and  
AMAZON.COM, INC.,

Defendants.

CIVIL ACTION NO. 1:20-cv-11358-ADB

**ORAL ARGUMENT REQUESTED**

**DEFENDANT AMAZON.COM, INC.’S  
MOTION TO DISMISS PLAINTIFFS’ AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and Local Rule 7.1, Defendant Amazon.com, Inc. (“Amazon”), by and through its undersigned counsel, hereby moves to dismiss in its entirety the Amended Complaint of Plaintiffs Suverino Frith, Savannah Kinzer, Cedrick Juarez, Faith Walsh, Mackenzie Shanahan, Corey Samuel, Jennifer Osayande, Britney Ifebohr, Kanaya Ryland, Kirby Burt, Leaver Michel, Abdulai Barry, Lindsay Vuong, Samantha Berimbau, Suepriya Adhi, Alice Tisme, Camille Tucker-Tolbert, Charles Thompson, Ana Belén Del Rio-Ramirez, Cassidy Visco, Lylah Styles, Kayla Greene, Sharie Robinson, Kelly Rigler, Justine O’Neill, Sarita Wilson, Yurin London, and Haley Evans (collectively, “Plaintiffs”). Specifically,

Plaintiffs failed to exhaust their administrative remedies before the U.S. Equal Opportunity Commission and, therefore, they cannot pursue their claims under Title VII of the Civil Rights Act of 1964 (“Title VII”) before this Court. Further, the Amended Complaint fails to state a viable claim for race discrimination (Count I) or retaliation (Count II) under Title VII.

Accordingly, for the foregoing reasons and those set forth in the accompanying Memorandum of Law, Amazon respectfully requests that the Court enter an Order dismissing the Complaint in its entirety with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).

### **REQUEST FOR ORAL ARGUMENT**

Amazon believes that oral argument will assist the Court and it wishes to be heard. Pursuant to Local Rule 7.1(d), Amazon therefore respectfully requests oral argument on this Motion.

Dated: September 9, 2020

AMAZON.COM, INC.

By counsel,

/s/ Julie V. Silva Palmer

Julie V. Silva Palmer BBO# 676788

julie.palmer@morganlewis.com

Sarah J. Butson, BBO# 703265

sarah.butson@morganlewis.com

**MORGAN, LEWIS & BOCKIUS LLP**

One Federal Street

Boston, Massachusetts 02119

Telephone: (617) 341-7277

Facsimile: (617) 341-7701

Anne Marie Estevez (*pro hac vice*)

annemarie.estevez@morganlewis.com

**MORGAN, LEWIS & BOCKIUS LLP**

200 South Biscayne Boulevard, Suite 5300

Miami, Florida 33131

Telephone: (305) 415-3000

Facsimile: (305) 415-3001

Michael L. Banks (*pro hac vice*)

Julia S. Sturniolo (*pro hac vice*)

michael.banks@morganlewis.com

julia.sturniolo@morganlewis.com

**MORGAN, LEWIS & BOCKIUS LLP**

1701 Market Street

Philadelphia, Pennsylvania 19103

Telephone: (215) 963-5000

Facsimile: (215) 963-5001

Terry D. Johnson (*pro hac vice*)

terry.johnson@morganlewis.com

**MORGAN, LEWIS & BOCKIUS LLP**

502 Carnegie Center

Princeton, New Jersey

Telephone: (609) 919-6600

Facsimile: (609) 919-6701

*Attorneys for Defendant Amazon.com, Inc.*

**LOCAL RULE 7.1 CERTIFICATION**

Counsel for Amazon hereby certifies that they conferred with counsel for Plaintiffs and have attempted in good faith to resolve or narrow the issues raised in this Motion.

/s/ Julie V. Silva Palmer  
Julie V. Silva Palmer

**CERTIFICATE OF SERVICE**

I, Julie Silva Palmer, hereby certify that on the September 9, 2020, the foregoing document was served via the Court's ECF filing system upon all counsel of record.

/s/ Julie V. Silva Palmer  
Julie V. Silva Palmer